IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SHOW CAUSE NOTICE NO.1111 OF 2006

IN

COMPANY APPLICATION NO.231 OF 2004

IN

COMPANY PETITION NO.1017 OF 2002

Basant Lal Agarwal. ...Petitioner.

vs.

M/s.Lloyds Finance Ltd. ...Respondent

and

1. Tushar Manilal Shah & another. ...Applicants

and

Special Committee appointed pursuant to order dt. 12.3.2004. ...Committee.

And

Mr.Baleshwar Prasad Gupta. ...Noticee

Mr.Nooruddin Dhila i/b. Hariani & Co., for Petitioner.

Mr.Janak Dwarkadas with Mr.Zal Andhyarujina, Mohan G.S. i/b. M/s.Gagarats, for Respondent.

Mr.Jeevan Goge with Sadanand Roy, for contemptner.

CORAM: D.K.DESHMUKH,J.

DATED: 12th January, 2007.

P.C.:-

1. This Court issued show cause notice by order dated 10.2.2006 to the respondent asking him to show cause as to why an action of contempt of Court should not be taken against him. The conduct of the respondent in relation to which the show cause notice is issued is that the respondent has filed a complaint bearing case no.967/C/05 at Patna. The respondent has filed criminal contempt against a Company by name M/s.Lloyds Finance Ltd. in relation to which the Court has appointed a Committee. The complaint is in relation to the offence punishable under Section 406, 418, 420, 120B r/w. 34 of the Indian Penal Code and some provisions of Reserve Bank of India Act also.

2. Pursuant to the show cause notice, the respondent has appeared. According to the , the respondent cannot be held guilty of having disobeyed any order made by this Court because there is no order made by this Court restraining the respondent from filing a criminal complaint in competent criminal court against the said

complaint.

3. The learned Counsel appearing for petitioner, however, submits that there is an order made by this court dated 16.7.2004 which clarifies the earlier order made by the Court dated 12.4.2004. I have perused both the orders dated 12.4.2004 and the subsequent order dt. 16.7.2004. By those orders all civil cases filed against the company and the Directors and and all the criminal proceedings against the company and / or its directors are stayed before the Court. The learned Counsel appearing for the petitioner is not in a position to point out any order made by the Court whereby the Creditors of the company are restrained or prohibited from filing criminal complaint against the company or its directors. The order of the Court granting stay of the criminal proceedings will not operate against the complainant to file criminal case, it will operate against the Court in which the case is filed and because of that order the court competent will not proceed further. It will not operate to prevent the complainant or creditors for making complaint against the company or its directors. Unless the Court passes an order restraining the creditors from filing criminal complaint, the conduct of the creditors of filing criminal complaint against the company and its directors cannot be said to be in violation or in breach of any order made by the Court. In this view of the matter therefore, I find substance in the submission

made on behalf of the respondent that by filing the criminal complaint before the criminal court, he has not committed any breach of any order passed by this Court. The show cause notice is therefore discharged. No order as to costs.